

District Court

OCT 31 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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Aviation Services (CNMI), Ltd. dba Freedom Air

8 UNITED STATES DISTRICT COURT

9 FOR THE

10 NORTHERN MARIANA ISLANDS

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13 MOSES T. FEJERAN and
QIANYAN S. FEJERAN,

14 Plaintiffs,

15 vs.

16 AVIATION SERVICES (CNMI), LTD.
17 dba FREEDOM AIR,

18 Defendant.

CIVIL ACTION NO. 05 - 0033**DEFENDANT'S ANSWER TO
PLAINTIFFS COMPLAINT AND
DEMAND FOR JURY TRIAL;
CERTIFICATE OF SERVICE**

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- 20 1. Paragraph 1 of the Complaint is denied.
- 21 2. Plaintiffs' right to a jury trial, or not, is a matter of law.
- 22 3. The allegations of paragraph 3 are denied on grounds of lack of sufficient
- 23 information to either admit or deny the allegations.
- 24 4. The allegations of paragraph 4 are denied on grounds of lack of sufficient
- 25 information to either admit or deny the allegations.
- 26 5. The allegations of paragraph 5 are denied on grounds of lack of sufficient
- 27 information to either admit or deny the allegations.
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1 6. The allegations of paragrpah 6 are denied.

2 7. The allegations of paragraph 7 are denied.

3 8. Freedom Air holds itself out as a certificated air carrier for routes including flights
4 from the CNMI to Guam, U.S.A..

5 9. It is admitted that Moses Fejerman was a passenger on Flight 200 on January 18,
6 2005.

7 10. Paragrpah 10 is denied.

8 11. Paragrpah 11 is denied.

9 12. The allegations of paragraph 12 are denied on grounds of lack of sufficient
10 information to either admit or deny the allegations.

11 13. The allegations of paragraph 13 are denied on grounds of lack of sufficient
12 information to either admit or deny the allegations.

13 14. Paragraph 14 is denied.

14 15. The above answers to paragraphs 1 - 14 are incorporated herein.

15 16. Parargraph 16 is denied.

16 17. Paragraph 17 is denied.

17 18. Paragraph 18 is denied.

18 19. Paragraph 19 is denied.

19 20. Paragraph 20 is denied.

20 21. Paragraph 21 is denied.

21 22. Paragraph 22 is denied.

22 23. Paragraph 23 is denied.

23 24. Paragraph 24 is denied.

24 25. The above answers to paragraphs 1 - 24 are incorporated herein.

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26. The allegations of paragraph 26 are denied on grounds of lack of sufficient information to either admit or deny the allegations.

27. Paragraph 27 is denied.

28. The allegations of paragraph 28 are denied on grounds of lack of sufficient information to either admit or deny the allegations.

29. The allegations of paragraph 29 are denied on grounds of lack of sufficient information to either admit or deny the allegations.

DEFENSES

1. The complaint fails to state a cause of action under the applicable law.

2. The complaint fails to state a claim upon which relief may be granted.

3. Defendant neither caused nor contributed to cause any losses or damages Plaintiffs may have sustained.

4. Defendant neither caused nor contributed to cause any losses or damages Plaintiffs may have sustained nor breached any duty owed to Moses Fejeran as an aircraft passenger or otherwise.

5. The cause of the incident was not external to the passenger.

6. Plaintiff Moses Fejeran was entirely at fault in causing the incident.

7. Plaintiff Quianyan Fejeran's claim is barred because Moses Fejeran was entirely at fault in causing the incident.

8. Plaintiffs' claims are barred or must be reduced to the extent that the acts or omissions of Plaintiffs, other parties or one or more third parties were partially or fully the proximate cause of any damages alleged and sustained by Plaintiffs.

9. Plaintiffs' claims are barred or must be reduced in accordance with Plaintiffs' failure to mitigate any damages they may have sustained.

1 10. Plaintiffs' claims for damages are barred or limited because they are neither plead
2 with sufficient specificity nor are they sustainable under the law applicable to the aircraft flight
3 in question.

4 11. Plaintiffs' claims for damages are barred or limited because they are neither plead
5 with sufficient specificity nor are they sustainable under the international convention(s)
6 governing the aircraft flight in question.

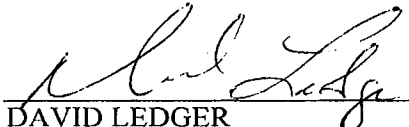
7 12. Plaintiffs' claims are barred or must be reduced in accordance with fault
8 attributable to Plaintiffs and others, said fault being partially or fully the proximate cause of any
9 alleged loss or damages.

10 13. Plaintiffs' prayer for relief and damages lacks sufficient specificity and seeks
11 compensation for damages not available under applicable law and international conventions.

12 14. Defendant reserves the right to assert additional defenses that may become
13 apparent as discovery and investigation continues. No such defense shall be deemed to
14 have been waived.

15 DATED: Hagåtña, Guam, October 31, 2005.

16 CARLSMITH BALL LLP

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21 DAVID LEDGER
22 JOHN D. OSBORN
23 Attorneys for Defendant
24 Aviation Services (CNMI), Ltd.
25 dba Freedom Air
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CERTIFICATE OF SERVICE


The undersigned hereby certifies that on the 31st day of October 2005, I will cause to be served, via hand delivery, a true and correct copy of **DEFENDANT'S ANSWER TO PLAINTIFFS COMPLAINT AND DEMAND FOR JURY TRIAL** upon the following

Counsels of record:

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DATED: Hagåtña, Guam, October 31, 2005.

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